

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Public Use Proceeding of Ted Christopher

Applicant(s): Ted Christopher

Examiner: F. Jaworski

Serial No.: 08/746,360

Art Unit: 3305

Filed: November 8, 1996

Docket: 9872

For: FINITE AMPLITUDE DISTORTION-
BASED INHOMOGENEOUS PULSE
ECHO ULTRASONIC IMAGING

Assistant Commissioner for Patents
Washington, DC 20231

APPLICANT'S REQUEST FOR CROSS-EXAMINATION
OF PETITIONER'S AFFIANTS

Dear Sir:

In accordance with 37 C.F.R. §§1.292(a) and 1.671-685, Applicant hereby requests cross-examination of all of the Petitioner's Declarants. Specifically, Applicant requests cross-examination of:

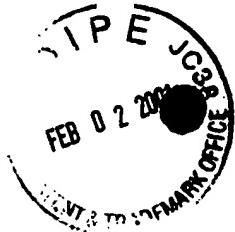
Joseph F. Hetz,
Paul E. Chandler,
Sharon Mulvagh,
Joan C. Main,
Gregory L. Holley,
Janna G. Clark, and
John M. Sheldon.

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Respectfully Submitted,

John S. Sensny
John S. Sensny
Registration No. 28,757

SCULLY, SCOTT, MURPHY & PRESSER
400 Garden City Plaza
Garden City, New York 11530
(516) 742-4343
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PROOF OF SERVICE

In accordance with 37 C.F.R. §1.248, Applicant hereby certifies that a duplicate copy of this paper, APPLICANT'S REQUEST FOR CROSS-EXAMINATION OF PETITIONER'S AFFIANTS, and all supporting materials have been served on Petitioner's attorney on January 30, 2001, via first class mail at the following address:

William A. Webb, Esq.
BRINKS HOFER GILSON & LIONE
P.O. Box 10395
Chicago, IL 60610

Dated: January 30 , 2001

John S. Sensny
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CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

I hereby certify that this correspondence, Applicant's Request For Cross-Examination Of Petitioner's Affiants and Proof of Service, is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231.

Dated: January 30, 2001

Grace Colucci
Grace Colucci

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TRANSMITTAL LETTER (General - Patent Pending)	Docket No. 9872
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In Re Application Of: In re Public Use Proceeding of: Ted Christopher

3737

Serial No.

08/746,360

Filing Date

November 8, 1996

Examiner

F. Jaworski

Group Art Unit

3305

Title: FINITE AMPLITUDE DISTORTION-BASED INHOMOGENEOUS PULSE ECHO ULTRASONIC



TO THE ASSISTANT COMMISSIONER FOR PATENTS:

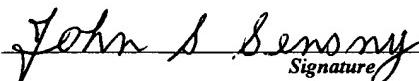
Transmitted herewith is:

Applicant's Objections To The Admissibility of Petitioner's Supplemental Evidence
Applicant's Request For Cross-Examination of Petitioner's Affiants

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in the above identified application.

- No additional fee is required.
- A check in the amount of _____ is attached.
- The Assistant Commissioner is hereby authorized to charge and credit Deposit Account No. 19-3886/RCT as described below. A duplicate copy of this sheet is enclosed.
 - Charge the amount of _____
 - Credit any overpayment.
 - Charge any additional fee required.


John S. Sensny
Signature

Dated: January 30, 2001

John S. Sensny
Registration No. 28,757

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I certify that this document and fee is being deposited on January 30, 2001 with the U.S. Postal Service as first class mail under 37 C.F.R. 1.8 and is addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.


Grace Colucci

Signature of Person Mailing Correspondence

CC:

Grace Colucci

Typed or Printed Name of Person Mailing Correspondence



PATENTS

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Applicant(s): Ted Christopher **Examiner:** F. Jaworski

Serial No.: 08/746,360 **Art Unit:** 3305

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BASED INHOMOGENEOUS PULSE
ECHO ULTRASONIC IMAGING **Dated:** January 30, 2001

Assistant Commissioner for Patents
Washington, DC 20231

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APPLICANT'S OBJECTIONS TO THE ADMISSIBILITY
OF PETITIONER'S SUPPLEMENTAL EVIDENCE

Dear Sir:

Pursuant to 37 C.F.R. §§1.292(a) and 1.671-685, Applicant hereby submits objections to the admissibility of the supplemental testimony and exhibits submitted by Petitioner.

Objections to the second Main Declaration

1. Applicant objects to the admissibility of all statements made in the Main Declaration relating to what is shown in the videotape and images discussed in paragraphs 7-12 and 17-29 on the grounds that the Declaration does not qualify Ms. Main as an expert qualified to analyze these videotapes and images.
2. Applicant objects to the admissibility of all statements in the Main Declaration as to what Mr. Chandler told Ms. Main on the grounds that such statements are hearsay.
3. Applicant objects to the admissibility of all statements made in the Main Declaration in paragraphs 6, 8 and 10 relating to the operation of the Acuson system Serial Number 1122 on the basis that Ms. Main did not have

personal knowledge of how the System 1122 actually worked in the studies and experiments discussed in these paragraphs.

4. Applicant objects to the admissibility of all statements made in paragraphs 8, 9, 10, 11 and 17-29 relating to what is shown in the videotapes and images discussed in these paragraphs on the grounds that such statements are hearsay.
5. Applicant objects to the admissibility of paragraphs 10 and 11 of the Main Declaration as not being relevant.
6. Applicant objects to the admissibility of the opinion, in paragraph 15, that the tape titled "Contrast Echocardiography Investigation Loop Copy" is the Betacam tape described in paragraphs 12-14, as not probative because of the lapse of time between the presentation of the tapes described in paragraphs 12-14 and the viewing of the tape described in paragraph 15.
7. Applicant objects to the admissibility of the opinion, in paragraph 15, that the reviewed tape has not been altered and is unchanged as not probative because of the lapse of time between the presentation of the tapes described in paragraphs 12-14 and the viewing of the tape described in paragraph 15.
8. Applicant objects to the admissibility of the still images identified in paragraph 30 of the Main Declaration on the basis that these still images were not publicly shown.
9. Applicant objects to the admissibility of the opinion, in paragraph 19, that the legend "with contrast" refers to the final condition of the experiment on the grounds that this opinion is not based on information that was available to the public at any time that the videotape may have been publicly shown.
10. Applicant objects to the admissibility of the opinion, in paragraph 26, that the right hand image is a tissue harmonic image. Applicant objects to the admissibility of the opinion because the opinion is based on information that was not available to the public at any time that the image may have been publicly shown.

Objections to the third Holley Declaration

1. Applicant objects to the admissibility of all statements made in the Holley Declaration relating to what is shown in the videotapes and images discussed in the Declaration on the grounds that such statements are hearsay.
2. Applicant objects to the admissibility of the opinion, in paragraph 9, relating to the legend "with contrast" as based on hearsay.
3. Applicant objects to the admissibility of the opinion, in paragraph 10, that certain images were taken after the contrast agent arrived in the left ventricle, as based on hearsay.
4. Applicant objects to the admissibility of the opinions given in paragraphs 8, 10, 11, 13, 14 and 15 on the basis that the Declaration does not establish Mr. Holley as an expert qualified to analyze the images discussed in these paragraphs.
5. Applicant objects to the admissibility of the still images identified in paragraph 19 of the Holley Declaration on the basis that these still images were not publicly shown.

Objections to the second Sheldon Declaration

1. Applicant objects to the opinion, in paragraph 3 of the Sheldon Declaration, that the copy of the original Betacam tape is an accurate copy of a loop segment of the original tape on the grounds that:
 - a. the procedure by which the copy was made is not sufficiently described, and
 - b. said opinion is based only on a review of the copy.
2. Applicant objects to the opinion, in paragraph 6, that the image frames are accurate hard copies of corresponding portions of a videotape on the grounds that the procedure by which the hard copies were made is not sufficiently described.
3. Applicant objects to the opinion, in paragraph 8, that the six copies of the copy of the original tape are accurate copies on the grounds that:

- a. the procedure by which the six copies were made is not sufficiently described, and
- b. said opinion is based only on a review of the copies.

Objections to the second Chandler Declaration

- 1. Applicant objects to the admissibility of the opinion, in paragraph 4, that tests confirmed that Serial Number 1122 transmitted and received specified frequencies on the grounds that:
 - a. these tests are not adequately described, and
 - b. the Declaration does not qualify Mr. Chandler as an expert qualified to render such an opinion.
- 2. Applicant objects to the statements in paragraph 5 relating to what Mr. Chandler told Ms. Main as not relevant and not probative.

Objections to Exhibits 10-20

- 1. Applicant objects to the admissibility of Exhibit 10 on the grounds that:
 - a. Adequate testimony has not been submitted establishing that this tape was the tape actually presented at the show floor at the American Society of Echocardiography in June 1993; and
 - b. Even if the tape was actually presented at the show floor, testimony has not been submitted establishing the specific conditions under which the video tape was actually shown and seen in public.
- 2. Applicant objects to the admissibility of Exhibits 11 and 12 on the grounds that these tapes have not been shown to be accurate copies of the original Betacam tape presented at the show floor at the American Society of Echocardiography in June 1993.
- 3. Applicant objects to the admissibility of Exhibits 13-20 on the basis that:
 - a. None of these Exhibits were publicly presented;
 - b. None of these Exhibits have been shown to be accurate copies of the corresponding images of the original Betacam tape; and

- c. These Exhibits are not probative and are prejudicial because still pictures of frames of the video tape were not actually shown and seen in public.
- 4. Applicant objects to the admissibility of all of Exhibits 10-20 on the basis that:
 - a. No admissible testimony has been submitted that properly analyzes any of these Exhibits; and
 - b. *Prima facie*, these Exhibits do not give any indication that any of the presented images were obtained in the absence of a contrast agent.

Respectfully Submitted,


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Dated: January 30, 2001

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